



House of Representatives

General Assembly

File No. 296

February Session, 2012

Substitute House Bill No. 5418

House of Representatives, April 5, 2012

The Committee on Banks reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE MODERNIZATION OF CERTAIN BANKING STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 36a-17 of the 2012 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (b) Any Connecticut bank, Connecticut credit union or Connecticut
5 credit union service organization which causes or has caused any
6 electronic data processing services to be performed for such bank,
7 credit union or credit union service organization either on or off its
8 premises by an electronic data processing servicer shall enter into a
9 written contract with such servicer. Such contract shall specify the
10 duties and responsibilities of the bank, credit union or credit union
11 service organization and such servicer and provide that such servicer
12 shall allow the commissioner to examine such servicer's books, records
13 and computer systems in accordance with this subsection, if required
14 by the commissioner. The Connecticut bank, Connecticut credit union

15 or Connecticut credit union service organization shall promptly notify
16 the commissioner of any material change in its electronic data
17 processing services. In the case of a material change which triggers a
18 notice requirement under 12 USC 1867, a Connecticut bank may satisfy
19 the notice requirements of this subsection by providing the
20 commissioner with a copy of the notice provided to the Federal
21 Deposit Insurance Corporation under 12 USC 1867. The commissioner
22 may examine the books, records and computer systems of any
23 electronic data processing servicer that performs electronic data
24 processing services for a Connecticut bank, Connecticut credit union or
25 Connecticut credit union service organization, if such services
26 substantially impact the operations of the Connecticut bank,
27 Connecticut credit union or Connecticut credit union service
28 organization as determined by the commissioner, in order to (1)
29 determine whether such servicer has the capacity to protect the
30 customer information of such bank, credit union or credit union
31 service organization, and (2) assess such servicer's potential for
32 continued service. The commissioner may assess a fee of one hundred
33 fifty dollars per day plus costs for each examiner who conducts such
34 examination, the total cost of which the commissioner may allocate on
35 a pro rata basis to all Connecticut banks, Connecticut credit unions and
36 Connecticut credit union service organizations under contract with
37 such servicer.

38 Sec. 2. Section 36a-760j of the 2012 supplement to the general
39 statutes is repealed and the following is substituted in lieu thereof
40 (*Effective from passage*):

41 No person shall influence real estate appraisals of residential
42 property. For the purposes of this section, "influence [residential] real
43 estate appraisals" means to directly or indirectly [coerce, influence or
44 otherwise encourage an appraiser to misstate or misrepresent the
45 value of residential property and includes, but is not limited to: (1)
46 Refusal, or intentional failure, to pay an appraiser for an appraisal that
47 reflects a fair market value estimate that is less than the sale contract
48 price; or (2) refusal, or intentional failure, to utilize, or encouraging

49 other mortgage brokers not to utilize, an appraiser based solely on the
50 fact that the appraiser provided an appraisal reflecting a fair market
51 value estimate that was less than the sale contract price.] cause or
52 attempt to cause, through coercion, extortion, inducement, bribery,
53 intimidation, compensation, instruction or collusion, the value
54 assigned to the residential property to be based on any factor other
55 than the independent judgment of the person who prepares the
56 appraisal.

57 Sec. 3. Subdivision (7) of section 36a-330 of the 2012 supplement to
58 the general statutes is repealed and the following is substituted in lieu
59 thereof (*Effective from passage*):

60 (7) "Qualified public depository" or "depository" means a bank,
61 Connecticut credit union, federal credit union or an out-of-state bank
62 that maintains in this state a branch, as defined in section 36a-410,
63 which receives or holds public deposits and, to the extent applicable,
64 (A) segregates eligible collateral for public deposits as described in
65 section 36a-333, as amended by this act, or (B) arranges for a letter of
66 credit to be issued in accordance with section 36a-337, as amended by
67 this act.

68 Sec. 4. Section 36a-330 of the 2012 supplement to the general statutes
69 is amended by adding subdivision (8) as follows (*Effective from passage*):

70 (NEW) (8) "Uninsured public deposit" means the portion of a public
71 deposit that is not insured or guaranteed by the Federal Deposit
72 Insurance Corporation or by the National Credit Union
73 Administration, but shall not include amounts in a qualified public
74 depository that have been, with the authorization of the public
75 depositor, redeposited into deposit accounts in one or more federally
76 insured banks, out-of-state banks, Connecticut credit unions or federal
77 credit unions, including the qualified public depository, provided the
78 full amounts so included are eligible for insurance coverage by the
79 Federal Deposit Insurance Corporation or by the National Credit
80 Union Administration.

81 Sec. 5. Subsection (a) of section 36a-333 of the 2012 supplement to
82 the general statutes is repealed and the following is substituted in lieu
83 thereof (*Effective from passage*):

84 (a) To secure public deposits, each qualified public depository shall
85 at all times maintain, segregated from its other assets as provided in
86 subsection (b) of this section, eligible collateral in an amount at least
87 equal to the following percentage of uninsured public deposits held by
88 the depository: (1) For any qualified public depository having a risk-
89 based capital ratio of ten per cent or greater, a sum equal to ten per
90 cent of all uninsured public deposits held by the depository; (2) for any
91 qualified public depository having a risk-based capital ratio of less
92 than ten per cent but greater than or equal to eight per cent, a sum
93 equal to twenty-five per cent of all uninsured public deposits held by
94 the depository; (3) for any qualified public depository having a risk-
95 based capital ratio of less than eight per cent but greater than or equal
96 to three per cent, a sum equal to one hundred per cent of all uninsured
97 public deposits held by the depository; (4) for any qualified public
98 depository having a risk-based capital ratio of less than three per cent,
99 and, notwithstanding the provisions of subdivisions (1) to (3),
100 inclusive, of this subsection, for any qualified public depository which
101 has been conducting business in this state for a period of less than two
102 years except for a qualified public depository that is a successor
103 institution to a qualified public depository which conducted business
104 in this state for two years or more, a sum equal to one hundred twenty
105 per cent of all uninsured public deposits held by the depository;
106 provided, the qualified public depository and the public depositor
107 may agree on an amount of eligible collateral to be maintained by the
108 depository that is greater than the minimum amounts required under
109 subdivisions (1) to (4), inclusive, of this subsection; (5) notwithstanding
110 the risk-based capital ratio provisions of subdivisions (1) to (3),
111 inclusive, of this subsection, for any qualified public depository that is
112 an uninsured bank, a sum equal to one hundred twenty per cent of all
113 public deposits held by the depository; and (6) notwithstanding the
114 risk-based capital ratio provisions of subdivisions (1) to (3), inclusive,
115 of this subsection, for any qualified public depository that is subject to

116 an order to cease and desist, consent order or a preliminary warning
117 letter, or has entered into a stipulation and agreement, memorandum
118 of understanding or a letter of understanding and agreement with a
119 bank or credit union supervisor, a sum equal to one hundred twenty
120 per cent of all uninsured public deposits held by the depository,
121 provided, the commissioner has reasonably determined, after
122 consultation with the relevant institution to the extent permitted by
123 law, and based on the events or circumstances that are the subject of
124 such order, agreement, memorandum or letter, that the current
125 collateral requirements are not adequate to protect public depositors
126 because such events or circumstances have had, or are likely to have, a
127 material adverse impact on the safety and soundness of the institution.
128 Notwithstanding the provisions of this subsection, the qualified public
129 depository and the public depositor may agree on an amount of
130 eligible collateral to be maintained by the depository that is greater
131 than the minimum amounts required under subdivisions (1) to (6),
132 inclusive, of this subsection. For purposes of this subsection, the
133 amount of all uninsured public deposits held by the depository shall
134 be determined at the close of business on the day of receipt of any
135 public deposit and any deficiency in the amount of eligible collateral
136 required under this section shall be cured not later than the close of
137 business on the following business day. For purposes of this
138 subsection, the depository's risk-based capital ratio shall be
139 determined, in accordance with applicable federal regulations and
140 regulations adopted by the commissioner in accordance with chapter
141 54, based on the most recent quarterly call report, provided (A) if,
142 during any calendar quarter after the issuance of such report, the
143 depository experiences a decline in its risk-based capital ratio to a level
144 that would require the depository to maintain a higher amount of
145 eligible collateral under subdivisions (1) to (4), inclusive, of this
146 subsection, the depository shall increase the amount of eligible
147 collateral maintained by it to the minimum required under
148 subdivisions (1) to (4), inclusive, of this subsection based on such lower
149 risk-based capital ratio and shall notify the commissioner of its actions;
150 and (B) if, during any calendar quarter after the issuance of such

151 report, the commissioner reasonably determines that the depository's
152 risk-based capital ratio is likely to decline to a level that would require
153 the depository to maintain a higher amount of eligible collateral under
154 subdivisions (1) to (4), inclusive, of this subsection, the commissioner
155 may require that the depository increase the amount of eligible
156 collateral maintained by it to the minimum required under
157 subdivisions (1) to (4), inclusive, of this subsection based on the
158 commissioner's determination of such lower risk-based capital ratio.
159 For purposes of determining the minimum market value of the eligible
160 collateral under subsection (e) of this section, a qualified public
161 depository shall apply the collateral ratio using uninsured public
162 deposits.

163 Sec. 6. Subsection (c) of section 36a-333 of the 2012 supplement to
164 the general statutes is repealed and the following is substituted in lieu
165 thereof (*Effective from passage*):

166 (c) The depository shall have the right to make substitutions of
167 eligible collateral at any time without notice. The depository shall have
168 the right to reduce the amount of eligible collateral maintained under
169 subsection (a) of this section provided such reduction shall be
170 determined based on the amount of all uninsured public deposits held
171 by the depository and the depository's risk-based capital ratio as
172 determined in accordance with said subsection (a). The depository
173 shall provide written notice to its public depositors of any such
174 reduction in the amount of eligible collateral maintained under
175 subsection (a) of this section.

176 Sec. 7. Subsection (c) of section 36a-337 of the general statutes is
177 repealed and the following is substituted in lieu thereof (*Effective from*
178 *passage*):

179 (c) In lieu of eligible collateral required under section 36a-333, as
180 amended by this act, all or any part of the uninsured public deposits
181 held by any qualified public depository may be secured solely by an
182 irrevocable letter of credit issued by [the Federal Home Loan Bank of
183 Boston, provided such] a federal home loan bank that has a credit

184 rating of the highest rating level from a rating service recognized by
185 the commissioner [and] or by a federal home loan bank that has
186 otherwise been deemed acceptable for such purposes by the
187 commissioner, provided [further] the amount of the letter of credit, as
188 a percentage of the uninsured public deposits, is no less than the
189 amount required by section 36a-333, as amended by this act, for
190 eligible collateral for the particular depository.

191 Sec. 8. Section 36a-334 of the 2012 supplement to the general statutes
192 is repealed and the following is substituted in lieu thereof (*Effective*
193 *from passage*):

194 When the commissioner determines that a loss has occurred, the
195 commissioner shall as soon as possible make payment to the proper
196 public officers of all public deposits subject to such loss, pursuant to
197 the following procedure: (1) For the purposes of determining the sums
198 to be paid, the commissioner or receiver shall, within twenty days after
199 issuance of a restraining order or taking possession of any qualified
200 public depository, ascertain the amount of public deposits held by the
201 depository as disclosed by its records and the amount [thereof covered
202 by deposit insurance] of such deposits that are uninsured deposits and
203 certify the amounts to each public depositor having public funds on
204 deposit in the depository; (2) within ten days after receipt of such
205 certification, each such public depositor shall furnish to the
206 commissioner verified statements of its deposits in the depository as
207 disclosed by its records plus information concerning any letters of
208 credit issued to the public depositor or any private insurance policy
209 used to secure public deposits, pursuant to section 36a-337, as
210 amended by this act; (3) upon receipt of such certificate and
211 statements, the commissioner shall ascertain and fix the amount of
212 such uninsured public deposits, net after deduction of any [deposit
213 insurance and any] amount received or to be received by the public
214 depositor pursuant to a letter of credit or private insurance policy
215 issued in accordance with section 36a-337, as amended by this act, and
216 assess the same against the depository in which the loss occurred; (4)
217 the assessment made by the commissioner shall be payable on the

218 second business day following demand, and in case of the failure of
219 the qualified public depository so to pay, the commissioner shall
220 immediately take possession of the eligible collateral, if any,
221 segregated by the depository pursuant to sections 36a-330 to 36a-338,
222 inclusive, as amended by this act, and liquidate the same for the
223 purpose of paying such assessment; (5) upon receipt of the assessment,
224 the commissioner shall reimburse the public depositors of the
225 depository in which the loss occurred to the extent of the depository's
226 net deposit liability to them.

227 Sec. 9. Section 36a-338 of the general statutes is repealed and the
228 following is substituted in lieu thereof (*Effective from passage*):

229 On each call report date, each qualified public depository shall file
230 with the commissioner a written report, certified under oath,
231 indicating [its] (1) the qualified public depository's risk-based capital
232 ratio and total capital, as determined in accordance with applicable
233 federal regulations and regulations adopted by the commissioner in
234 accordance with chapter 54, (2) the total amount of public deposits
235 held by [it and] the qualified public depository other than deposits that
236 have been redeposited into the qualified public depository by another
237 insured depository institution pursuant to a reciprocal deposit
238 arrangement that makes such funds eligible for insurance coverage by
239 the Federal Deposit Insurance Corporation or the National Credit
240 Union Administration, (3) the amount and nature of [the] any eligible
241 collateral segregated and designated to secure the uninsured public
242 deposits in accordance with sections 36a-330 to 36a-338, inclusive, as
243 amended by this act, and (4) the amount and the name of the issuer of
244 any letter of credit issued pursuant to section 36a-337, as amended by
245 this act. Each depository shall furnish a copy of its most recent report
246 to any public depositor having public funds on deposit in the
247 depository, upon request of the depositor. Any public depository
248 which refuses or neglects to furnish any report or give any information
249 as required by this section shall no longer be a qualified public
250 depository and shall be excluded from the right to receive public
251 deposits.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	36a-17(b)
Sec. 2	<i>from passage</i>	36a-760j
Sec. 3	<i>from passage</i>	36a-330(7)
Sec. 4	<i>from passage</i>	36a-330
Sec. 5	<i>from passage</i>	36a-333(a)
Sec. 6	<i>from passage</i>	36a-333(c)
Sec. 7	<i>from passage</i>	36a-337(c)
Sec. 8	<i>from passage</i>	36a-334
Sec. 9	<i>from passage</i>	36a-338

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill results in no fiscal impact to the Department of Banking as the agency already monitors the transactions and actions of financial institutions.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 5418*****AN ACT CONCERNING THE MODERNIZATION OF CERTAIN BANKING STATUTES.*****SUMMARY:**

This bill eliminates the requirement that public depositories provide collateral for deposits that are insured by the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Administration (NCUA). It also makes changes to required collateral amounts, including the amount required for an institution that has received a memorandum of understanding, a cease and desist order, or other similar letter or order from a supervisory agency.

The bill allows state chartered banks to satisfy certain notice requirements by providing the banking commissioner with a copy of the same notice the bank must provide to FDIC under federal law. It also enables banks to use regional federal home loan banks other than the Federal Home Loan Bank of Boston to issue letter of credit.

Additionally, the bill redefines the meaning of “influencing real estate appraisals” for residential property.

EFFECTIVE DATE: Upon passage

§§ 3–9 — UNINSURED PUBLIC DEPOSITS***Definition of Uninsured Public Deposit (§ 4)***

The bill defines “uninsured public deposit” as the portion of a public deposit not insured or guaranteed by FDIC or NCUA. This does not include amounts in a public depository (an institution allowed to hold public funds) that have been, with the authorization of the public depositor, redeposited into accounts in one or more federally insured

banks, out-of-state banks, Connecticut credit unions or federal credit unions including the public depository, as long as the full amounts included are eligible for FDIC or NCUA insurance coverage.

Collateral Requirements (§§ 5, 6, 8, & 9)

The bill eliminates the requirement that public depositories provide collateral for deposits that are insured by FDIC or NCUA and makes several additional conforming changes.

Current law requires a public depository that is subject to a cease and desist order, or that entered into a stipulation and agreement or letter of understanding and agreement with a bank or credit union supervisor, to maintain, apart from its other assets, 120% of all public deposits it holds, unless the depository and the public depositor agree on a greater percentage.

The bill changes the collateral requirement to 120% of the public depository's uninsured public deposits. The bill makes this requirement dependent on the commissioner's reasonable determination, based on the events or circumstances that are the subject of the order, agreement, memorandum, or letter, that a lower collateral requirement would be inadequate to protect public depositors because the events or circumstances had, or are likely to have, a material adverse impact on the depository's safety and soundness.

Letters of Credit (§ 7)

Under current law, a public depository may supply a letter of credit only from the Federal Home Loan Bank of Boston as collateral support for public deposits.

The bill expands the public depository's options by allowing it to supply such a letter of credit from (1) a federal home loan bank that has the highest rating from a rating service recognized by the banking commissioner, or (2) a federal home loan bank that the banking commissioner has deemed acceptable for such purposes.

Reporting Requirements (§ 9)

Under current law, a public depository must regularly report to the banking commissioner, among other things, the total amount of public deposits it holds.

The bill modifies the reporting requirement to apply to the depository's public deposits other than those that have been redeposited into the depository by another insured depository institution according to a reciprocal deposit arrangement that makes such funds eligible for FDIC or NCUA insurance coverage.

§ 2 — INFLUENCING REAL ESTATE APPRAISALS

The law prohibits any person from influencing real estate appraisals of residential property. The bill redefines the meaning of such influence.

Current law defines "influencing residential real estate appraisals" as directly or indirectly coercing, influencing, or otherwise encouraging an appraiser to misstate or misrepresent the value of residential property. It includes (1) refusal, or intentional failure, to pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price or (2) refusal, or intentional failure, to utilize, or encouraging other mortgage brokers not to utilize, an appraiser based solely on the fact that the appraiser provided an appraisal reflecting a fair market value estimate that was less than the contract price.

The bill defines "influencing real estate appraisals" as directly or indirectly causing or attempting to cause, through coercion, extortion, inducement, bribery, intimidation, compensation, instruction, or collusion, the value assigned to the residential property to be based on any factor other than the appraiser's independent judgment.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/20/2012)